

AMENDED IN ASSEMBLY JUNE 19, 2012

AMENDED IN ASSEMBLY JUNE 12, 2012

AMENDED IN SENATE MAY 21, 2012

AMENDED IN SENATE APRIL 30, 2012

## **SENATE BILL**

**No. 1488**

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**Introduced by Senator Yee**

February 24, 2012

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An act to add and repeal Chapter 12.5 (commencing with Section 4979.1) of Division 2 of the Business and Professions Code, relating to healing arts.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1488, as amended, Yee. Healing arts: California traditional Chinese Medicine traumatologist certification.

Existing law establishes various boards that license and regulate healing arts practitioners, including physicians and surgeons, chiropractors, physical therapists, and massage therapists. Existing law provides for the voluntary certification of certain ~~practitioners~~, *practitioners*, including the voluntary certification of massage therapists by the California Massage Therapy Council, a nonprofit organization. Existing law prescribes specified educational and other requirements for an applicant to obtain a massage therapy certificate.

This bill would establish the California Traditional Chinese Medicine Traumatology Council as a nonprofit organization to provide for the certification and regulation of the practice of California traditional Chinese Medicine traumatologists, as defined. The bill would require the council to issue a certificate to practice as a California traditional Chinese Medicine traumatologist to an applicant who meets certain

training and clinical experience requirements, *passes a written examination*, and pays a specified fee. ~~This bill~~ *The bill would require the council to develop, and report to the Legislature by January 1, 2015, its standards for approving education programs, its standards for evaluating the education, training, and clinical experience of applicants, the written examination, and a continuing education program for California traditional Chinese Medicine traumatologists. The bill would make the meetings and deliberations of the council subject to the open meeting requirements that apply to state bodies.*

This bill would set forth procedures for the renewal of a certificate to perform California traditional Chinese Medicine traumatology and would establish specified fees in that regard.

This bill would prohibit treatment that constitutes the practice of medicine or chiropractic procedures, as defined.

This bill would also make it an unfair business practice to use the title of “California certified traditional Chinese Medicine traumatologist” without meeting these certification requirements and would authorize the board to suspend or revoke a certificate for unprofessional conduct, certain fraudulent acts, or specified crimes committed by the certificate holder.

This bill would repeal these provisions on January 1, 2017, unless legislation is enacted before that date to remove or extend that deadline.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 12.5 (commencing with Section 4979.1)  
2     is added to Division 2 of the Business and Professions Code, to  
3     read:  
4  
5     CHAPTER 12.5. CALIFORNIA TRADITIONAL CHINESE MEDICINE  
6                                     TRAUMATOLOGY  
7  
8     4979.1. As used in this chapter:  
9     (a) “California certified traditional Chinese Medicine  
10    traumatologist” means a person who has been certified by the  
11    California Traditional Chinese Medicine Traumatology Council  
12    to perform California traditional Chinese Medicine traumatology.

(b) “Council” means the California Traditional Chinese Medicine Traumatology Council.

(c) “California traditional Chinese Medicine traumatology” includes a range of treatments to address both acute and chronic musculoskeletal conditions through stimulation of acupressure points. Techniques include, but are not limited to, brushing, kneading, rolling, pressing, rubbing, pushing, holding, and lifting the areas between each of the joints to open the body’s defensive chi and stimulate the energy movement in both meridians, but do not include manipulation techniques to realign the musculoskeletal and ligamentous relationship, also known as bone setting.

4979.3. (a) The California Traditional Chinese Medicine Traumatology Council shall be established as a nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, for the purpose of developing standards for, and certifying the practice of, California traditional Chinese Medicine traumatology. The council may commence activities as authorized by this section after submitting a request to the Internal Revenue Service seeking the exemption.

(b) (1) The council shall consist of five members, composed of three representatives from the clinical settings of traumatology, and one representative each from the Medical Board of California and the California Medical Association.

(2) Representatives from the clinical settings of traumatology shall be selected by professional societies, associations, or other entities, whose memberships are comprised solely of practitioners of California traditional Chinese Medicine traumatology.

(3) To qualify, a professional society, association, or entity shall have a dues-paying membership in California of at least 30 individuals for the last three years and shall have bylaws that require its members to comply with a code of ethics.

~~(e) (1) Subject to subdivision (e), the council shall meet and confer to determine the certification standards, including the level of experience and training needed for an individual to qualify for certification in California traditional Chinese Medicine traumatology.~~

~~(2) The council shall develop the application form for certification.~~

~~(3)~~

1 (c) The meetings and deliberations of the council shall be subject  
2 to the provisions of the Bagley-Keene Open Meeting Act (Article  
3 9 (commencing with Section 11120) of Chapter 1 of Part 1 of  
4 Division 3 of Title 2 of the Government Code).

5 ~~(d) The council shall issue a certificate for California certified~~  
6 ~~traditional Chinese Medicine traumatology to any person who~~  
7 ~~makes an application and meets all of the following requirements;~~  
8 ~~as determined by the council pursuant to subdivision (e):~~

9 ~~(1) Is at least 18 years of age.~~

10 ~~(2) Furnishes satisfactory evidence of training and clinical~~  
11 ~~experience that meets the standards established by the council.~~

12 ~~(3) Is not subject to denial pursuant to Division 1.5 (commencing~~  
13 ~~with Section 475).~~

14 ~~(e) The council shall evaluate whether an applicant meets the~~  
15 ~~certification standards, including the level of experience and~~  
16 ~~training to sufficiently qualify for the traumatology certification.~~

17 ~~(f) An individual who is not qualified to receive a certificate~~  
18 ~~under this section, or who fails to apply for certification under this~~  
19 ~~section, shall not hold himself or herself out as a California certified~~  
20 ~~traditional Chinese Medicine traumatologist pursuant to this~~  
21 ~~section.~~

22 *4979.3.5. (a) The council shall issue a certificate for California*  
23 *certified traditional Chinese Medicine traumatology to any person*  
24 *who makes an application on a form developed by the council,*  
25 *and meets all of the following requirements:*

26 *(1) Is at least 18 years of age.*

27 *(2) Furnishes satisfactory evidence of one of the following:*

28 *(A) Satisfactory completion of an educational and clinical*  
29 *training program approved by the council requiring a minimum*  
30 *of 880 hours of instruction in California traditional Chinese*  
31 *Medicine traumatology.*

32 *(B) In the case of an applicant who has completed education*  
33 *and training outside the United States and Canada, documented*  
34 *education, training, and at least eight years clinical experience in*  
35 *traditional Chinese Medicine traumatology that meets the*  
36 *standards established by the council pursuant to subdivision (c).*

37 *(3) Is not subject to denial pursuant to Division 1.5 (commencing*  
38 *with Section 475).*

39 *(4) Passes a written examination developed and administered*  
40 *by the council that tests the applicant's ability, competency, and*

1 *knowledge in the practice of a traditional Chinese Medicine*  
2 *traumatologist.*

3 *(b) The council shall investigate all of the documentation*  
4 *provided by the applicant and verify its authenticity to evaluate*  
5 *whether an applicant meets the certification standards, including*  
6 *the level of experience and training to sufficiently qualify for the*  
7 *traumatology certification.*

8 *(c) The council shall develop, and report to the Legislature by*  
9 *January 1, 2015, all of the following:*

10 *(1) The standards for approval of educational and clinical*  
11 *training programs pursuant to subparagraph (A) of paragraph*  
12 *(2) of subdivision (a).*

13 *(2) The standards for evaluating the education, training, and*  
14 *clinical experience of an applicant pursuant to subparagraph (B)*  
15 *of paragraph (2) of subdivision (a).*

16 *(3) The written examination pursuant to paragraph (4) of*  
17 *subdivision (a).*

18 *(4) A continuing education program for California certified*  
19 *traditional Chinese Medicine traumatologists.*

20 4979.4. (a) A California certified traditional Chinese Medicine  
21 traumatologist shall not practice medicine, as defined in Section  
22 2052.

23 (b) A California certified traditional Chinese Medicine  
24 traumatologist shall not practice within the scope of activities  
25 regulated by the State Board of Chiropractic Examiners.

26 4979.5. (a) An applicant for California traditional Chinese  
27 Medicine traumatology certification shall file an application for a  
28 certificate for California traditional Chinese Medicine traumatology  
29 with the council.

30 (b) An individual who is not qualified to receive a certificate  
31 under this section shall not hold himself or herself out as a  
32 California certified traditional Chinese Medicine traumatologist.

33 4979.6. An applicant for certification as a California traditional  
34 Chinese Medicine traumatologist shall pay an application fee in a  
35 reasonable amount, not to exceed two hundred dollars (\$200) for  
36 the regulatory cost to the council of processing the application,  
37 when submitting his or her application to the council.

38 4979.7. A California certified traditional Chinese Medicine  
39 traumatologist shall renew his or her certificate every two years.

1     4979.8. An expired certificate may be renewed at any time  
2     within six months after its expiration. The holder of the certificate  
3     shall pay all accrued and unpaid renewal fees, plus a delinquency  
4     fee.

5     (a) The renewal fee shall be one hundred dollars (\$100).

6     (b) The delinquency fee shall be twenty-five dollars (\$25).

7     (c) The fee for a duplicate or replacement engraved wall  
8     certificate shall be fifteen dollars (\$15).

9     (d) The fee for a duplicate or replacement renewal receipt/pocket  
10    certificate shall be ten dollars (\$10).

11    4979.9. Moneys received under this section shall be utilized  
12    by the council to pay for the costs associated with administering  
13    this chapter.

14    4979.10. It is an unfair business practice for any person to hold  
15    himself or herself out as a California certified traditional Chinese  
16    Medicine traumatologist or use the title of “California certified  
17    traditional Chinese Medicine traumatologist” without meeting the  
18    requirements of this chapter.

19    4979.11. It is a violation of this chapter for a certificate holder  
20    to commit, and the council may deny an application for a certificate  
21    or suspend or revoke a certificate for, any of the following:

22    (a) Unprofessional conduct, including, but not limited to, denial  
23    of licensure or certification, revocation, suspension, restriction, or  
24    any other disciplinary action against a certificate holder by another  
25    state or territory of the United States, by any other government  
26    agency, or by another entity. A certified copy of the decision,  
27    order, or judgment shall be conclusive evidence of these actions.

28    (b) Procuring a certificate by fraud, misrepresentation, or  
29    mistake.

30    (c) Violating or attempting to violate, directly or indirectly, or  
31    assisting in or abetting the violation of, or conspiring to violate,  
32    any provision of this chapter or any rule or bylaw adopted by the  
33    council.

34    (d) Conviction of any felony, or conviction of a misdemeanor  
35    that is substantially related to the qualifications or duties of a  
36    certificate holder, in which event the record of the conviction shall  
37    be conclusive evidence of the crime.

38    (e) Impersonating an applicant or acting as a proxy for an  
39    applicant in any part of the application process or any part of

1 satisfying the standards set by the council referred to under this  
2 chapter for the issuance of a certificate.

3 (f) Impersonating a California certified traditional Chinese  
4 Medicine traumatologist, or permitting or allowing an uncertified  
5 person to use a certificate.

6 (g) Committing any fraudulent, dishonest, or corrupt act that is  
7 substantially related to the qualifications or duties of a certificate  
8 holder.

9 (h) Committing any act punishable as a sexually related crime.

10 4979.12. This chapter shall remain in effect only until January  
11 1, 2017, and as of that date is repealed, unless a later enacted  
12 statute, that is enacted before January 1, 2017, deletes or extends  
13 that date.